

September 23, 2010

VIA ECFS

EX PARTE NOTICE

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: CS Docket No. 97-80, PP Docket No. 00-67

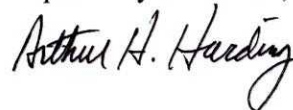
Dear Ms. Dortch:

On September 22, 2010, representatives of Cable One, Inc. ("Cable One") – specifically, Tom Might, President and CEO of Cable One; Patrick Butler, Senior Vice President of the Washington Post Company (retired); and the undersigned – met separately with Chairman Genachowski; Sherrese Smith, legal advisor to the Chairman; and Media Bureau staff to discuss issues raised in the above-referenced CableCARD rulemaking proceeding. The Media Bureau meeting was attended by staff members William Lake, Kris Monteith, Nancy Murphy, Alison Neplokh, Mary Beth Murphy, Brendan Murray, and Jeff Neumann.

The discussion at each meeting generally reflected the positions Cable One has taken in filings in the CableCARD rulemaking proceeding which are summarized in the attached document. In particular, Cable One urged the Commission to adopt an industry-wide waiver for the deployment of low-cost, one-way, integrated, HD-capable set-top boxes. Such relief would enable Cable One and other cable operators that have been inhibited by the cost of deploying the required non-integrated set-top boxes throughout their cable systems to reclaim additional bandwidth to provide expanded and improved services to consumers, while providing cable subscribers with an affordable option to view the HD-quality programming they expect to see on their HD sets.

Please feel free to contact me with any questions regarding this letter.

Respectfully submitted,



Arthur H. Harding
Counsel for Cable One, Inc.

cc: Chairman Genachowski (via e-mail)
Sherrese Smith (via e-mail)
William Lake (via e-mail)
Kris Monteith (via e-mail)
Nancy Murphy (via e-mail)

Alison Neplokh (via e-mail)
Mary Beth Murphy (via e-mail)
Brendan Murray (via e-mail)
Jeff Neumann (via e-mail)

CABLECARD FNPRM TALKING POINTS

I. INTRODUCTION

- The Commission's proposal to allow operators to deploy integrated, one-way, high definition ("HD") capable navigation devices ("HD-ADDs") would serve the public interest by promoting the objectives established by the Commission in connection with the digital television transition and the National Broadband Plan (the "Broadband Plan") without harming the eventual accomplishment of the goals of Section 629 of the Communications Act.

II. A BLANKET HD-ADD WAIVER WILL FACILITATE THE DIGITAL TRANSITION

- The digital transition has precipitated a virtual explosion in the availability of HD programming -- programming options that unfortunately cannot be enjoyed by the vast majority of cable subscribers who lack affordable HD set-top boxes ("STBs").
- A blanket HD-ADD waiver would provide economic incentives allowing more effective use of system capacity so operators could offer expanded HD programming options, as well as increased broadband speeds and other services that are beneficial to subscribers.
- It also would provide consumers a low-cost option to view HD programming, which would not only fuel the sale of HD television ("HDTV") sets and ensure that existing sets function as consumers expect, but also help close the considerable gap in HD deployment and HD adoption.
 - As HDTV ownership (currently at more than 70% of TV households) becomes nearly ubiquitous, HD viewing is likely to continue to lag far behind absent affordable HD devices from multichannel video programming distributors.
 - The availability of a low-cost HD-ADD would help close the gap between HDTV ownership and HD viewing, further ensuring that consumers who purchase HDTV sets are "able to fully experience this enhanced viewing opportunity."

III. A BLANKET HD-ADD WAIVER WILL FACILITATE NATIONAL BROADBAND PLAN OBJECTIVES

- The Broadband Plan establishes the lofty goal of bringing Internet speeds of at least 100 Mbps to at least 100 million U.S. households, but recognizes that this goal will be particularly challenging in lower density, rural areas.
- A blanket HD-ADD waiver would facilitate desirable enhancement of the U.S. broadband infrastructure.

- As the FCC recognized, system enhancements, such as those that can be achieved by expanding digital capacity, “represent a significant improvement to the U.S. broadband infrastructure,” and are of substantial benefit to consumers, particularly “consumers who value high download and upload speeds [that] benefit by having a service choice they did not have [previously].”
- Cable One has over 20 smaller, rural systems that have run out of bandwidth. Most of Cable One’s 550 MHz systems (covering 60% of subscribers) will run out of bandwidth this year, limiting their service to approximately 45 HD networks and 12 Mbs DOCSIS 2.0 Internet speeds.
- These consumers are being deprived of services they desperately want or need, and prompt relief while the Commission separately explores an AllVid or other solution will bring these benefits to consumers faster.
 - The National Broadband Plan’s recommendation for universal STB gateways should not prohibit or stall the process of low-function, one-way, HD-capable devices. Despite the availability of well over 100 HD networks today, HD viewing in HDTV households stubbornly remains around 50% due to the high cost of HD STBs. The proposed 2012 gateway introduction target date and the incremental rollout process after that date make large scale gateway deployment many years too late to solve the current all-digital and HD marketplace needs. In fact, HD ownership is projected to be ubiquitous by 2012, the same year the first gateways would be deployed even under a best-case scenario.
 - There is a logical need for a low cost, one-way HD STB to deliver immediate and significant consumer benefits right now, while the affected industries explore the development of a gateway solution to eventually provide broad Internet access to the TV later. We should not inhibit today’s HD and Internet consumer needs for tomorrow’s wants. We must address both.

IV. A BLANKET HD-ADD WAIVER WILL NOT HARM THE EVENTUAL ACHIEVEMENT OF THE GOALS OF SECTION 629

- The FCC determined in the Cable One Dyersburg waiver decision that:
 - “It is appropriate to add HD functionality to the list of one-way capabilities that can qualify for a waiver of the general rule.”
 - There is no reason for a “regulatory incentive to deprive consumers of the HD-quality programming” that they have paid for and rightfully expect to see on their HD TV sets.
 - “[A] one-way, low-cost box with HD capability is unlikely to present a significant impediment to the development of a competitive retail market for navigation devices.”

- Based on the Dyersburg record and numerous other related FCC decisions, it is clear that a blanket waiver would not have an impact on the retail market for navigation devices.
 - There is no retail market for UDCPs. The consumer electronics industry has all but abandoned this approach to focus its efforts on the development of two-way devices with enhanced functionality.
 - Operators would still be required to offer CableCARDS to any subscriber that requests them and to offer CableCARD support for any DVR or bi-directional devices they offer for lease or sale.
- In fact, a blanket waiver would enhance competition by introducing new device manufacturers to the set-top box market, thus presenting opportunities for other cable operators to enjoy greater competition and choice and escape the U.S. set-top box duopoly in their selection of video device vendors and embrace the world-wide open DVB standard.

V. THERE IS NO REASON TO LIMIT SUCH RELIEF TO CABLE SYSTEMS WITH AN ACTIVATED CAPACITY OF 552 MHZ OR LESS

- While such systems obviously face critical bandwidth shortages and thus would benefit significantly from the proposed relief, systems with more than 552 MHz are likely to already provide a greater multitude of HD programming options.
- Subscribers of these systems also deserve to have a low-cost option to view the ever-expanding variety of HD programming offered by their cable operator, particularly on second sets in their homes that the consumer may elect not to equip with a more expensive full-featured, two-way box.

VI. THERE IS NO REASON TO LIMIT SUCH RELIEF TO CABLE SYSTEMS THAT COMMIT TO GOING “ALL-DIGITAL”

- It is not uncommon for cable systems to offer a mix of analog and digitally transmitted services. For example, a cable system might elect to convert its expanded basic tier to digital, which would typically yield the most significant reclamation of bandwidth, while retaining an analog basic tier for budget-minded subscribers that simply want reliable quality pictures for their favorite broadcast programs and would prefer not to attach any set-top box.
- Cable operators should be afforded maximum flexibility to address such situations, while still being able to provide a low-cost viewing option for HD programming, as would result from the proposed relief for HD-ADDs.

VII. HD-ADDs SHOULD BE EXEMPT FROM THE REQUIREMENT TO INCLUDE THE IEEE 1394 OR SIMILAR INTERFACE THAT PROVIDES HOME NETWORKING FUNCTIONALITY

- Given that the purpose behind this requirement is to enable home networking functionality in set top boxes, cable operators should not be required to include the IEEE 1394 or similar interfaces in HD-ADDs they deploy to subscribers.
- In the Cable One Dyersburg waiver order, the Commission on its own motion waived the IEEE 1394 interface requirement, finding that “the costs to consumers of imposing the IEEE 1394 output requirement would outweigh the potential benefits.”
- While there are differing views as to the expense associated with including the interface, the Commission concluded that “regardless of the precise cost of the 1394 requirement, we believe that the additional cost would be inconsistent with the purpose of this grant, *i.e.*, to provide a low-cost HD box for consumers.”

VIII. CONCLUSION

- The Commission should promptly provide blanket relief for deployment of HD-ADDs to all cable operators.
- Such relief should not be limited to systems with activated capacity of 552 MHz or less or systems that commit to go “all-digital.”
- HD-ADDs should be exempt from the requirement to include the IEEE 1394 or similar interface that provides home networking functionality.

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